



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 19, 2003

Ms. Marva Gay  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002-1700

OR2003-8316

Dear Ms. Gay:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 191311.

The Office of the Harris County Auditor (the "auditor's office") received a request for the names, home addresses, phone numbers, and years of service of all personnel resigning or retiring from Harris County during a specified time period. You have released the requested names and years of services but claim that the remainder of the requested information is excepted from disclosure under sections 552.117 and 552.1175 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.1175 provides in part that

(b) Information that relates to the home address, home telephone number, or social security number of [a peace officer as defined by article 2.12 of the Code of Criminal Procedure], or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(b). However, you do not inform this office, nor does any of the submitted information indicate, whether the individuals whose information is at issue are licensed peace officers who have notified the auditor's office of their elections of confidentiality for this information in accordance with the above-cited subsections 552.1175(b)(1) and (2). *See, e.g.*, Open Records Decision No. 678 (2003) (concluding that county voter registrar was authorized to release voter information made confidential under section 552.1175 of Government Code to another governmental entity, but that transferred information would not be confidential in possession of transferee until recipient governmental entity receives a section 552.1175 notification). If the individuals are currently licensed peace officers who comply with section 552.1175(b), the auditor's office must withhold the individuals' home addresses and phone numbers. If not, the auditor's office may not withhold this information under section 552.1175.

Next, we consider the applicability of section 552.117 of the Government Code for those individuals who are not peace officers and for the county's remaining employees. Section 552.117 excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who timely elect to keep this information confidential pursuant to section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the auditor's office may only withhold information under section 552.117 on behalf of current or former officials or employees who elected to keep information confidential pursuant to section 552.024 prior to the date on which the request for this information was made. For those employees who timely elected to keep their personal information confidential, the auditor's office must withhold the employees' home addresses and telephone numbers. The auditor's office may not withhold this information under section 552.117 for those employees who did not make a timely election to keep the information confidential.

In summary, if a former employee is a licensed peace officer and has complied with section 552.1175(b), the auditor's office must withhold the individual's home address and phone number under section 552.1175. If a former employee is not a licensed peace officer, and if the former employee elected to keep personal information confidential pursuant to section 552.024, then the auditor's office must withhold the individual's home address and phone number under section 552.117(a)(1).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full

benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Peterson", with a stylized flourish at the end.

Amy D. Peterson  
Assistant Attorney General  
Open Records Division

ADP/sdk

Ref: ID# 191311

Enc. Submitted documents

c: Mr. Louis H. Geigerman  
2422 Wagon Run  
Sugarland, Texas 77496-1315  
(w/o enclosures)